

08/10/2011

ORDINANCE NO. 49-042

AN ORDINANCE AMENDING SECTIONS 3.22.010, 3.22.020, 3.22.040, 3.22.060 AND 3.22.070, CREATING SECTIONS 3.22.015, 3.22.035, 3.22.062, 3.22.065, 3.22.067, 3.22.080 AND 3.22.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO HAUNTED HOUSES, HALLOWEEN HOUSES, MYSTERY MANSIONS AND GHOST WALKS AND REPEALING THE ORIGINALS OF SECTIONS 3.22.010, 3.22.020, 3.22.040, 3.22.050, 3.22.060 AND 3.22.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.22.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Definitions.** 'Chief of Police' means the Chief of the Wichita Police Department or his/her designee;

'Fire Chief' means the Director of the Fire Department of the City of Wichita, Kansas, or his/her designee;

'Fire Watch' means a temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals or standby personnel when required by the Fire Chief for the purpose of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the Fire Department;

'Halloween Season' means the period of time from September 1st through November 2nd of any calendar year;

‘Haunted House, Indoor’ means any indoor permanent or temporary building, structure or facility, or portion thereof, which provides walkways or any other system that transports passengers through a facility or course so arranged that the means of egress are not readily apparent due to theatrical distractions or displays, are not plainly visible due to low illumination, or are not readily accessible or available due to the type of course, pathways or method of transportation through the building or structure, and where the public is invited to view, be entertained, scared or amused by simulated creations of sound, theatrical displays or distractions, or sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature in the spirit of and celebration of the holiday known as Halloween. Unless otherwise specified, such term shall include temporary and permanent haunted houses, indoor.

‘Haunted Walk/Field, Outdoor’ means an attraction similar to haunted houses, indoor, which occurs primarily outdoors but may include both outdoor or indoor areas where egress to a public way is not readily identifiable, where the public is invited to view, be entertained, scared or amused by simulated creations of sound, theatrical distractions, sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature in the spirit of and celebration of the holiday known as Halloween.

‘Permanent Haunted House’ means a ‘Haunted House, Indoor’ that meets the requirements of the Wichita-Sedgwick County Unified Zoning Code as related to “Recreation and Entertainment, Indoor” uses, as well as all City of Wichita

building, fire, electrical, elevator, mechanical, plumbing and sewer codes, which may operate year round.

‘Person’ means any individual, firm, association, company, partnership, or other legal entity.

‘Superintendent of Central Inspection’ means the superintendent or person in charge of the Office of Central Inspection of the City or his/her designee

‘Temporary Haunted House, Indoor or Temporary Haunted Walk/Field, Outdoor’ means a haunted house, indoor, or haunted walk/field, outdoor that is operated only during the Halloween Season.”

SECTION 2. Section 3.22.015 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Enforcement of provisions of Code.** (a) The Office of Central Inspection of the City of Wichita, the Wichita Police Department, the Wichita Fire Department, the Wichita Department of Public Works & Utilities and the authorized representatives of such departments, shall be responsible for the enforcement of all provisions of this Code.

(b) The provisions of this Code are in addition to any other health, fire, zoning, building code or life safety requirements within the ordinances of the Code of the City of Wichita or laws of the State of Kansas.”

SECTION 3. Section 3.22.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License or permit required--Fee.** (a) It is unlawful for any person to engage, conduct, pursue, operate, authorize or permit, within the corporate

limits of the city, a temporary haunted house, indoor or haunted walk/field, outdoor, whether or not an admittance fee is charged, without first obtaining a license from the City Treasurer and paying a license fee of one hundred dollars.

In addition to the application fee, an inspection fee not to exceed fifty dollars (\$50.00) will be assessed for each subsequent inspection(s) of the property by the Office of Central Inspection or the Fire Department to determine compliance with the provisions of this Code at the time of licensing. No inspection fee shall be assessed for the initial inspection, or when the first re-inspection verifies that corrections required during initial inspection have been resolved. Further, the applicant or his/her contractors or other agents are responsible for obtaining any and all permits and inspections required pursuant to the building, fire, electrical, mechanical, plumbing and elevator codes of the City of Wichita.

(b) It is unlawful for any person to engage, conduct, pursue, operate, authorize or permit, within the corporate limits of the city, a permanent haunted house, indoor, whether or not an admittance fee is charged, without first obtaining a license from the City Treasurer and paying a license fee of two hundred fifty dollars;

In addition to the application fee, an inspection fee not to exceed fifty dollars (\$50.00) will be assessed for each subsequent inspection(s) of the property by the Office of Central Inspection or the Fire Department to determine compliance with the provisions of this Code at the time of licensing or during the annual license period when modifications to egress paths or systems, theatrical

distraction or displays, or egress path illumination are made. Such modifications must be inspected and approved by the City of Wichita Fire Department and/or Office of Central Inspection. No inspection fee shall be assessed for the initial annual license inspection, or when the first re-inspection verifies that corrections required during initial inspection have been resolved. Further, the applicant or his/her contractors or other agents are responsible for obtaining any and all permits and inspections required pursuant to the building, fire, plumbing, sewer, mechanical, elevator and electrical codes of the City of Wichita.

(c) No license shall be issued for the operation of a haunted house, indoor or haunted walk/field, outdoor in any residential zoning district except those located in buildings of churches, schools or upon public property with the written approval of the municipality, department or agency authorized to issue such approval for use of the property.

(d) The license for temporary haunted houses, indoor or haunted walks/fields, outdoor shall be effective for one annual Halloween Season as defined by this chapter.

(e) The license for permanent haunted houses, indoor shall be effective for twelve months.”

SECTION 4. Section 3.22.035 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“**Application.** (a) Before any license is granted or issued for a haunted house, indoor or haunted walk/field, outdoor, an application shall be filed with the City Treasurer, setting forth the following facts:

(1) The name, address, date of birth of the applicant and a telephone number where the applicant can be reached between the hours of eight a.m. and five p.m. and during the hours of operation of the haunted house, indoor or haunted walk/field, outdoor;

(2) Address of the haunted house, indoor or haunted walk/field, outdoor;

(3) Property owner's name, address and phone number;

(4) Dates for which the license is desired;

(5) Hours and days the haunted house, indoor or haunted walk/field, outdoor is to be open and closed;

(6) A statement that the applicant is familiar with the conditions imposed by the terms of this chapter;

(7) Written consent of the property owner;

(8) Site and/or floor plan of all proposed indoor or outdoor permanent or temporary buildings, structures, facilities or property;

(9) Plan for parking and restroom facilities;

(10) Maximum occupant load of the buildings, facilities or areas.

(b) In addition, the applicant must furnish:

(1) The name(s) and address(es) of the owner(s) of the premises where such haunted house, indoor or haunted walk/field, outdoor is located;

(2) The manager or operator and, if a corporation or partnership, all the names and addresses of the officers of such corporation or partnership and any individual who owns twenty-five (25) percent or more of the stock of such corporation. If the license is to be held by a corporation, the resident officer of the corporation. If the applicant is a partnership, all the names, addresses, social security numbers and dates of birth of all partners of the partnership;

(3) The name, address and date of birth of the applicant, owner, manager or other responsible person of the haunted house, indoor or haunted walk/field, outdoor;

(4) An emergency management plan, consisting of, but not limited to, fire and storm evacuation, patron crowd control and emergency access for police, fire and ambulance;

(5) Detailed plans and drawings of the haunted house, indoor or haunted walk/field, outdoor shall be submitted to the Office of Central Inspection and the Wichita Fire Department, indicating the waiting area for persons seeking admission, the parking areas, all restrooms, emergency exits and all other areas accessible by patrons;

(6) A statement as to whether the applicant has ever had any license denied, revoked or suspended by the City of Wichita or the State of Kansas or any other governmental entity, the reason therefor and the business activity or occupation of the individual subsequent to such suspension, revocation or denial;

(7) A statement as to whether the applicant has ever been convicted of a felony or other crime as set forth in this section which would make the applicant ineligible to be licensed pursuant to the terms of this Chapter;

(8) A statement that the applicant consents and agrees that any member of the Police Department, Fire Department, Office of Central Inspection and Department of Public Works & Utilities may, at any time, enter and inspect any part of such premises.

(c) A license shall be denied if one or more of the following conditions exist:

(1) Any applicant, owner, officer, manager or director of a corporate applicant, any person owning twenty-five percent (25%) or more of the stock of a corporate applicant, or any partner of a partnership applicant if the partner has, within the preceding ten years, been convicted of or placed on diversion for a:

a. Felony;

b. A crime for which the individual is required to register as a sex offender pursuant to K.S.A. 22-4901, et seq. or laws or statutes in other local, state or federal jurisdictions which require an offender to be registered as a sex offender;

c. For any conviction or diversion of a misdemeanor within the last three years involving:



i. Laws pertaining to any controlled substance(s) prohibited by the Uniform Controlled Substance Act, K.S.A. 65-4104, *et seq.* or other laws of the state of Kansas or the United States and amendments thereto;

ii. Prostitution;

iii. Public Indecency;

iv. A sex crime or other person crime as defined by Chapter 21 of the Kansas Statutes Annotated;

v. Any weapons charge.

(2) An applicant is less than eighteen (18) years of age;

(3) The premises do not comply with the health, building, fire, electrical, mechanical, plumbing, elevator and zoning codes of the City of Wichita, except as allowed by the provisions of Section 3.22.020(c) regarding the location of the temporary haunted house, indoor or haunted walk/field, outdoor;

(4) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(5) The application is incomplete or if it contains any material misrepresentation.

(6) The applicant, in the last two years has violated the provisions of this Chapter or has had a previous haunted house, indoor or haunted walk/field, outdoor license revoked for failure to comply with the

term and conditions of the license or for violations of the ordinances of the City of Wichita.

(d) The application is filed with, and the license fee is paid to the City Treasurer. The license will not be issued until the application has been reviewed and approved by the Chief of Police, the Office of Central Inspection and the Fire Chief.

(e) No permanent haunted house, indoor license will be issued to any facility which is not property zoned for "Recreation and Entertainment, Indoor" pursuant to the Wichita-Sedgwick County Unified Zoning Code. All activities of a permanent haunted house, indoor must occur completely inside the structure or facility licensed as a permanent haunted house, indoor.

(f) Applications for a license or renewal will not be accepted by the City Treasurer less than thirty (30) days prior to the opening of the haunted house, indoor or haunted walk/field, outdoor, or expiration of a current license."

SECTION 5. Section 3.22.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Liability insurance.** (a) No person within the corporate limits of the city shall be licensed to engage in the operation of a haunted house, indoor or haunted field/walk, outdoor until he has deposited and filed with the City Treasurer, a public liability insurance policy with coverage of not less than five hundred thousand dollars for injury or death to any one person and one million dollars for injury or death to any number of persons in any one accident.

(b) It is unlawful for any person to operate a haunted house, indoor or haunted walk/field, outdoor without obtaining and maintaining in force, during the operation of the haunted house, indoor or haunted walk/field, outdoor, liability insurance in the amounts required by this Code.

(c) It is the responsibility of the licensee to notify the City Treasurer of any change, cancellation or termination of insurance coverage.”

SECTION 6. Section 3.22.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Standards, rules and regulations.** Every person engaging in, conducting, pursuing or operating a haunted house, indoor or haunted walk/field, outdoor within the corporate limits of the city, shall comply with the following standards, rules and regulations covering the operation of the haunted house, indoor or haunted walk/field, outdoor:

(a) Before any license is issued, the building or structure shall be inspected and approved by representatives of the Office of Central Inspection and the Fire Department.

(b) The building or structure shall be of sound structural condition.

(c) Fire protection shall be provided as required by the currently adopted City of Wichita fire codes. This shall include, but not be limited to, fire extinguishers, an approved automatic fire detection system, sprinkler system and an emergency notification system with a prerecorded, approved message. The Fire Chief may approve a fire watch to be temporarily used in lieu of, or in conjunction with, automatic fire and/or smoke detection systems sprinkler

systems and/or other emergency notification systems when such fire watch would adequately protect the safety of public while on the licensee's premises. The Fire Chief shall determine the type and number of personnel required for the fire watch and the licensee shall be responsible for all personnel and other costs associated with the required fire watch.

(d) Each floor level shall be provided with at least two approved exits, and steps with three or more risers shall be equipped with handrails.

(e) Exit and emergency lighting shall be provided.

(f) All corridors, hallways or walkways that are part of a required primary path of emergency egress from the building or facility shall be a minimum of thirty-six inches wide, with minimum maneuvering clearances at required egress doors as required by the building code. Mazes and/or hallways that are not part of the primary path of emergency egress shall not be less than two feet, six inches wide.

(g) All mazes shall have exit facilities each twenty feet.

(h) All decorations and materials used shall be flame resistant or treated and maintained fire retardant.

(i) All employees must be trained in emergency procedures regarding evacuation of the facility.

(j) All emergency staff shall carry flashlights and know the location of all exits, fire extinguishers, light switches, electrical panels and emergency phones;

(k) Open flames or space heaters are prohibited indoors, and may only be allowed outdoors with prior Fire Department authorization and approval;

(l) Storage or use of flammable or combustible liquids, gasses and solids is prohibited.

(m) All buildings or structures and the surrounding grounds and premises shall be cleaned, inspected and secured after the operation is closed for the season.

(n) A telephone shall be available on the premises for emergency use at all times when the premises are open to the public.

(o) Off-street parking shall be located on the licensed premises or on an abutting lot immediately adjacent to the structure or facility.

(p) All electrical facilities, wiring, appliances, motors and devices of whatever nature shall be approved by the Office of Central Inspection.

(q) Structural materials, electrical facilities, mechanical devices, decorations, appliances, motors and other devices of whatever nature shall be constructed, used and maintained so that no hazard is created that is contrary to any code adopted by the City of Wichita.

(r) Suitable arrangements for restroom facilities and sanitary sewage disposal must be provided. A minimum of one toilet or portable toilet shall be provided for every two hundred people based on the approved maximum premises capacity (occupant load) of the facility. Each facility will have at least one toilet which is handicap accessible.

(s) The property and all structures shall be maintained in a clean and sanitary manner by the owner or operator.

(t) Noise may not exceed the maximum allowable noise levels established in Chapter 7.41 of the Code of the City of Wichita. Noise shall not be of such volume, intensity or duration as to disturb a person or reasonable sensibilities.

(u) Haunted houses, indoor shall not be opened to the public or operate earlier than nine a.m. nor remain open to the public or operate later than two a.m. Haunted walks/fields, outdoor shall not be opened to the public or operate earlier than nine a.m. nor remain open to the public or operate later than twelve midnight Sunday through Thursday, except on October 31<sup>st</sup>, or later than two a.m. on Friday and Saturday or on October 31<sup>st</sup>.

(v) Any modifications to plans submitted and approved, at the time of licensing or licensing renewal, must be inspected and approved by the Office of Central Inspection and the Fire Department.”

SECTION 7. Section 3.22.062 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Right of Access.** During any hours of operation and at times when the licensee, operator or their employees or agents are on the premises, all haunted houses, indoor and haunted walks/fields, outdoor shall be open for inspection(s) by the Wichita Fire Department, Office of Central Inspection officials, Department of Public Works & Utilities officials and Wichita Police Department or other law enforcement agencies.”

SECTION 8. Section 3.22.065 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Premises capacity.** It shall be the duty of the Fire Chief and the Superintendent of Central Inspection to determine the number of persons who can be safely accommodated at any one time in any building, premises or location where any haunted house, indoor or haunted walk/field, outdoor is located. The Fire Chief and the Superintendent of Central Inspection shall rate and limit the maximum occupant load of the building, premises or location and furnish a certificate thereof to the owner or operator of such haunted house, indoor or any building or structure which is part of a haunted walk/field, outdoor, which owner shall be required to post such certificate near the main entrance in the facility. Such owner, operator, licensee or responsible person is hereby required to limit the attendance at such haunted house, indoor or haunted walk/field, outdoor to such maximum occupant load capacity as has been determined by the Fire Chief and Superintendent of Central Inspection. It shall be unlawful to post a certificate of maximum occupant load showing a greater capacity than that shown by the Office of Central Inspection and Fire Chief.”

SECTION 9. Section 3.22.067 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Inspection of Premises.** It shall be unlawful to conduct or operate any haunted house, indoor or haunted walk/field, outdoor which has not been inspected and approved by the Office of Central Inspection and the Fire Department.”

SECTION 10. Section 3.22.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Penalty for violation of chapter.** Any person who violates any provisions of this chapter, shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed five hundred dollars. Each day's violation shall be a separate offense.”

SECTION 11. Section 3.22.080 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Administrative procedures.** (a) A haunted house, indoor or haunted walk/field, outdoor license may be suspended, or revoked if:

- (1) Any information furnished on the application is incomplete, false or is not updated as required by this Chapter;
- (2) Failure to comply with any condition of the haunted house, indoor or haunted walk/field, outdoor license;
- (3) The licensee or a manager has become ineligible to hold a license;
- (4) The owner, manager, partner, director or other person owning twenty-five percent or more of the stock of a corporate licensee or a partner of a partnership licensee is convicted of any violation or crime which would make them ineligible to obtain a haunted house, indoor or haunted walk/field, outdoor license;
- (5) The premises are in violation of the health, building, fire, electrical, mechanical, plumbing, elevator or zoning codes, except as



allowed by Section 3.22.020(c) of the City of Wichita regarding the location of the haunted house, indoor or haunted walk/field, outdoor, or the laws of the State of Kansas;

(6) Evidence of a material variance in the actual plan and design of the premises from the plans submitted pursuant to this Chapter, or from the original design of the premises when initially licensed;

(7) Any law enforcement officer, Fire Department, Public Works & Utilities or Office of Central Inspection official, is refused access to inspect the premises during any hours of operation and at times when the licensee, operator or their employees or agents are on the premises;

(8) The premises are in violation of the maximum occupant load of such building, structure or facility;

(9) The licensee or any employee or agent of the licensee is found to be in violation of the provisions of this chapter or any other ordinance, rule or regulation of the City of Wichita.

For the purposes of this section, '*conviction*' or '*violation*' shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

(b) The Superintendent of Central Inspection, Fire Chief or Chief of Police shall provide written notice of the intent to revoke or suspend a haunted house, indoor or haunted walk/field, outdoor license by personal service or by certified mail, return receipt requested. The notice shall be sent to the mailing

address of the licensee on file with the City Treasurer. The notice shall provide the effective date of the revocation or suspension of the license. Such notice shall detail the reasons or basis for the revocation or suspension of the license. No revocation or suspension shall be imposed on less than five days notice to the licensee, and shall specify the rights of the licensee to appeal any such revocation or suspension.”

SECTION 12. Section 3.22.090 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Appeal Procedure.** (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of a haunted house, indoor or haunted walk/field, outdoor license may file with the City Clerk a written notice of appeal to the City Council within ten (10) business days of the decision by the Superintendent of Central Inspection, Chief of Police or Fire Chief or their designees. The Notice of Appeal shall specify:

- (1) the name and address of the appellant;
- (2) the date of application;
- (3) the date of the denial, suspension or revocation of the license or application;
- (4) the factual basis for the appeal.

(b) Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than twenty days from the date of the filing of the Notice of Appeal with the City Clerk. Any

appeal shall stay the suspension or revocation of the license until the matter is heard by the City Council.

(c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Superintendent of Central Inspection, Chief of Police or Fire Chief.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, revocation, modification or suspension of the license by the City Council.”

SECTION 13. The originals of Sections 3.22.010, 3.22.020, 3.22.040, 3.22.050, 3.22.060 and 3.22.070 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 14. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 16th day of August, 2011.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law